

REMARKS

Claims 75-78, 80, 83-86, 88-96, 99, and 102-121 are pending.

Claims 76-78, 80, 85-86, 88-89, 93-94, 96, 99, 102-103, 107, 111, 115, and 119-121 are previously presented.

Claims 75, 92, 106, 110, 114, and 118 are currently amended. Support for the amendment to the claims is found in the specification as originally filed.

New Claims 122-123 are added. Support for the new claims is found on page 10, third paragraph, Figure 8, and throughout the specification as originally filed.

Claims 83-84, 90-91, 95, 104-105, 108-109, 112-113, and 116-117 are cancelled without prejudice.

Therefore, no new matter will be added upon entry of the amendment.

Upon entry of the amendment, Claims 75-78, 80, 85-86, 88-89, 92-94, 96, 99, 102-103, 106-107, 110-111, 114-115, and 118-123 will be active.

The rejection of Claims 75-78, 80, 83-86, 88-96, 99, and 102-121 under 35 U.S.C. §101 is obviated by amendment. Applicants thank the Examiner for providing alternative language that would liberate these claims from the present rejection. Therefore, it is requested that the Examiner withdraw this rejection.

The rejection of Claims 75-78, 80, 83-86, 88-96, 99, and 102-121 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement, is traversed.

Applicant agrees that the terminology "nonporous" or "non-porosity" does not explicitly appear in the disclosure, as originally filed. However, it is noted that the polymeric material is inherently substantially nonporous to air and water. In support of this fact, Applicant will file a Declaration Under 37 CFR §1.132 shortly, in which Declarant Bruce G. Kania, the sole inventor of the invention, attests that the polymeric material of a prototypical

cushion liner for enclosing for an amputation stump, as described in the examples, is substantially nonporous to air and water. Declarant notes that a prototypical cushion liner can be blown up like a balloon, sealed off and can retain air for quite some time.

Furthermore, Declarant notes that when a prototypical liner is removed after exercising the interior of the liner is wet from perspiration, but the exterior is dry. Therefore, it is noted that there is adequate support to describe the polymeric material as being substantially nonporous to air and water; and it is requested that the Examiner withdraw this rejection.

The rejection of Claims 106-121 under 35 U.S.C. §112, second paragraph, as being indefinite is obviated by amendment. It is believed that the currently amended claims are free of this rejection. Therefore, it is requested that the Examiner withdraw this rejection.

Finally, the Office has noted that the fact that the invention polymeric materials are nonporous to air and water, and stated that such is seemingly inconsistent with overcoming the problems being addressed. The Examiner has cited several passages in U.S. 5,830,237 to illuminate this apparent inconsistency. For example, the elimination/reduction of unpleasant sounds (col. 1, ll. 40-50; col. 3, ll. 20-24; and col. 4, ll. 4-11). See page 3 of the Official Action.

Applicant notes that the Office's initial reaction is as expected. What is unexpected is that the invention configuration, being substantially nonporous to both air and water, actually provides an excellent amputation covering! As it turns out, a polymeric material that is substantially nonporous to air and water is *not* inconsistent with the problems outlined in U.S. 5,830,237. This is illustrated by considering the following.

An attractive feature of the claimed invention is that the polymeric material is substantially nonporous to air and water. For instance, when a below-the-knee (BK) amputee walks with a prosthetic device using a liner that is porous, air can be introduced between the skin and the liner itself and the very action of ambulation means that air pockets form. The

formation of these air pockets is undesirable because as the BK amputee walks around using the prosthetic device irritating and/or embarrassing noises are generated from the cushion liner. To give the Examiner some perspective as to the nature of these noises, Applicant has observed that equivalent noises can be made using a whoopee cushion. By employing a prototypical cushion liner for enclosing an amputation stump as defined by the present invention, however, which incorporates a polymeric material that is substantially nonporous to air and water, a user dons this cushion liner and forms a substantially air tight seal such that during the act of ambulating embarrassing noises are eliminated or are reduced significantly.

As noted in the response filed on February 19, 2004, the disclosures of Norman (GB 2213380), Lerman (US 4635626), and Mushenko (SU 1739990) all describe cushion liners which are meant to breathe and allow perspiration to escape from the liner, which is in contrast to the claimed invention. Therefore, it should be readily apparent why the claimed invention is both novel and unobvious over the cited references.

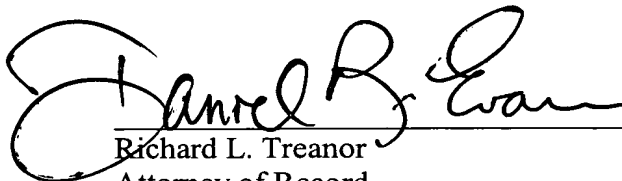
Finally, Applicant wishes to make of record the references cited in the **Information Disclosure Statement** filed concurrently herewith. Applicant apologizes for the number of references that are being cited at this time, but these references have been brought to light due to concurrently prosecution in related patent applications (U.S. 6,404,499; U.S./10/107,318; 09/418,505; 10/701,426; EP 97926761.4; and EP 96909649.4). Applicant kindly requests that the Examiner acknowledge consideration of the cited references by returning a copy of Forms PTO-1449 that cite these references, which has been initialed, signed, and dated.

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Accordingly, it is believed that the pending claims are free from all rejections and are distinguishable from all of the cited references; and are in a condition for allowance. An early and favorable indication of the same is earnestly requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
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A handwritten signature in black ink, appearing to read "Daniel R. Evans", is written over a horizontal line. The signature is stylized with large loops and a long tail.

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